

ZB# 92-15

Lorraine & Terry DeCouto

68-3-3

Pilem.

May 11, 1992

Need:

Addl. Notice of Denial
on residence & ~~House~~
new figures from B.D.

Also - Use Variance.

- ① Copy of Deed
- ② Title Policy
- ③ OLPD to be notified & done 6/19/92.
- ④ Fees { a - 150.00 Pd.
b - 250.00 Pd. }

Motion to Sd. P.H.

Notice to Sentinel 6/19/92

Public Hearing: 4th done

July 13, 1992

Area/Use Variances
Granted

~~Do F.I.D. =~~

~~Wait for minutes~~

Attys Fees:

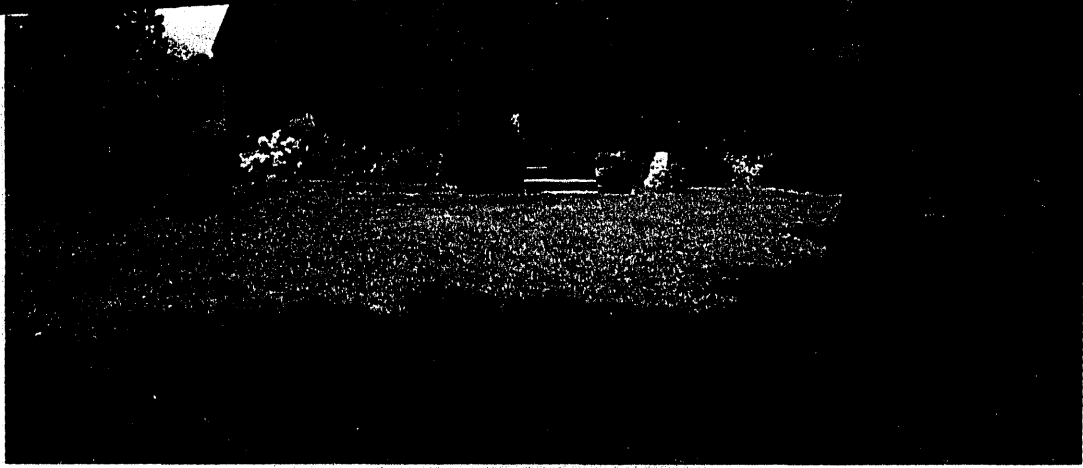
Addl. Due: \$152.00
Chrgs.

Paid

#92-15 - De Couto, Terry
(Lorraine's Flower-n-stuff)



237-1



TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

12770

Received of Bourgeois Flowers - N - Stuff July 21, 19 92 \$ 150⁰⁰/₁₀₀

One Hundred fifty and ⁰⁰/₁₀₀ DOLLARS

For Zoning Appl. fee (# 92-15)

DISTRIBUTION:

FUND	CODE	AMOUNT
Check # 1408		\$150 ⁰⁰ / ₁₀₀

By Pauline S. Towne

Town Clerk

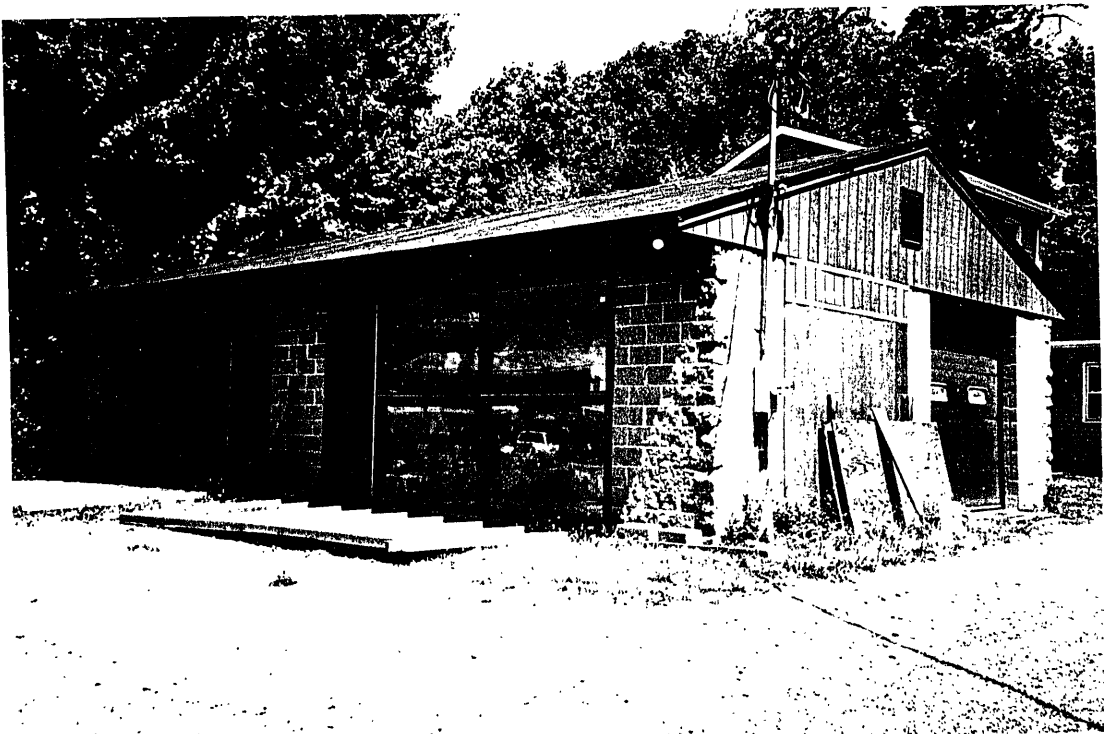
Title

CO# 118 - Bourgeois, Del & L

72.00
330.00
402.00

~~250.00~~
~~402.00~~
48.00

402.
~~850~~
152.



44-75-1161
(Korraine's)

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: DeCouto, Terry

FILE # 92-15.

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 150.00 *pd.*

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 250.00 *pd.*

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 5/11/92 - 8. pages \$ 36.00
2ND PRELIM. MEETING - PER PAGE 7/13/92 - 8. pages \$ 36.00
3RD PRELIM. MEETING - PER PAGE 7/13/92 - 8. pages \$ 36.00
PUBLIC HEARING - PER PAGE 7/13/92 - 8. pages \$ 36.00
TOTAL \$ 144.00

ATTORNEY'S FEES:

PRELIM. MEETING- .4 HRS. \$ 60.00
~~2ND PRELIM. MEETING~~ .4 HRS. \$ 60.00
3RD PRELIM. 1.4 HRS. \$ 210.00
FORMAL DECISION 1.4 HRS. \$ 210.00
TOTAL HRS. 2.2 @ \$ 150 PER HR. \$ 330.00
TOTAL \$ 330.00

MISC. CHARGES:

Postage - 29 at 29¢ \$ 8.41
TOTAL \$ 402.00

LESS ESCROW DEPOSIT . . . \$ 250.00
(ADDL. CHARGES DUE) . . . \$ 152.00 *Due.*
REFUND TO APPLICANT DUE . . . \$ 100.00



Lorraine's Flowers - N. Stuff
P.O. Box 4537
New Windsor, NY 12550

1409

June 19, 1992

50-693/219

Pay to the order of Town of New Windsor \$ 250.00
Two hundred fifty ⁰⁰/₁₀₀ Dollars.



Key Bank of Eastern New York N.A.
Route 32
Valis Gate, NY 12584
Valis Gate Office

302

Memo. Att. fee 92-15.

Lorraine DeCato

⑆021906934⑆ 02⑈427354⑈8⑈ 1409



Lorraine's Flowers - N. Stuff
P.O. Box 4537
New Windsor, NY 12550

1408

June 19, 1992

50-693/219

Pay to the order of Town of New Windsor \$ 150.00
One hundred fifty ⁰⁰/₁₀₀ Dollars.



Key Bank of Eastern New York N.A.
Route 32
Valis Gate, NY 12584
Valis Gate Office

302

nothing
Memo. Att. fee 92-15.

Lorraine DeCato

⑆021906934⑆ 02⑈427354⑈8⑈ 1408

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
-----x

In the Matter of the Application of

LORRAINE DE COUTO,

DECISION GRANTING
USE/AREA VARIANCES

#92-15.
-----x

WHEREAS, LORRAINE DE COUTO, P. O. Box 4537, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for (1) a use variance to permit a change of use from pre-existing, non-conforming residential use to mixed use of retail sales by converting an existing residential garage to a flower shop and continuing the existing single-family residential use in a detached structure in a C zone, (2) 19,168.1 s.f. lot area variance, (3) 86 ft. lot width variance, (4) 33.1 ft. front yard variance, (5) 16.25 ft. side yard variance, (6) 1.95 ft. total side yard variance, (7) 10.42 ft. building height variance (area variances numbered 2 through 7 all apply to the conversion of the existing residential garage to retail sales as a flower shop), (8) 18.5 ft. side yard variance and (9) 21.2 ft. building height variance (area variances 8 and 9 refer to the existing residence as a single-family dwelling), all in connection with the applicant's proposal to convert the existing residential use to a mixed use of single family residential and retail sales on property located on Route 300 and Old Temple Hill Road in a C zone; and

WHEREAS, a public hearing was held on the 13th day of July, 1992 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, LORRAINE DE COUTO, the applicant, appeared with her engineer, Martin G. Rogers, P.E. of Cuomo Engineering, who represented the applicant at the public hearing and spoke in support of the application; and

WHEREAS, there were no spectators present at the public hearing; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel also as required by law.

2. The evidence shows that the applicant is seeking permission to change the use of her property from the present residential use as a single-family dwelling, which is a pre-existing non-conforming use in this zone, to a mixed use as residential by continuing the existing single-family dwelling and

by adding retail sales, to wit, a flower shop, in the existing residential garage.

3. The retail sales use is a use permitted as of right in the C zone. The continuation of the residential use as a single-family dwelling, upon the same premises as the new, now-conforming retail sales use, is a use that is not permitted in the C zone. In addition, the applicant is seeking permission to vary the bulk regulations with regard to lot area, lot width, front yard, side yard, total side yards, and building height in connection with the conversion of the existing residential garage to a retail store for use as a flower shop; and in addition the applicant is seeking permission to vary the bulk regulations with regard to side yard and building height in connection with the continuation of the existing residential dwelling upon the same site as the proposed retail store in the C zone.

4. The evidence presented by the applicant indicated that the residential use of this site pre-exists the adoption of the Zoning Local Law by the Town of New Windsor. It is the finding of this Board that the applicant has an absolute right to continue such residential use as a single-family dwelling as a pre-existing non-conforming use. However, the applicant's proposal to change the use of this site to a mixed use, by combining the residential use as a single-family dwelling with the proposed use as a retail store, which is a use permitted by right in the C zone, creates the necessity for a use variance to be granted in order to allow the continuance of the residential use upon this site.

5. The evidence presented by the applicant further indicated that the physical dimensions of all buildings presently on this site is to remain as is. There is to be no new construction, other than the addition of parking and drives. All of the area variances which the applicant seeks are necessitated by the existing buildings on the site.

6. The applicant also presented evidence which indicated that the subject property is similar in size to the neighboring lots. The lots which are adjacent, on either side of the subject parcel are presently devoted to residential use however the applicant indicated that the block in which the subject property is located is gradually converting from residential to commercial use.

7. The applicant has filed the required short environmental assessment form in connection with her application.

8. The Zoning Board of Appeals of the Town of New Windsor has declared itself an involved agency in regard to the review of the applicant's request for a use variance, upon the assumption that the Planning Board of the Town of New Windsor ultimately will declare itself the lead agency in regard to the proposed construction by the applicant.

9. The Zoning Board of Appeals of the Town of New Windsor has reviewed the short environmental assessment form prepared by

the applicant, and is familiar with the area of the subject property and the currently changing character thereof and finds that the granting of the requested use variance will not result in any significant adverse environmental impact and consequently has made a negative declaration under SEQRA for the requested use variance.

10. Based upon the evidence presented, and the Boards familiarity with the applicant's property and the surrounding area, it is the finding of this Board that the applicant has demonstrated unnecessary hardship, entitling her to the granting of the requested use variance to create a mixed use of the subject property by continuing the residential use as a single-family dwelling as well as converting the existing residential garage to retail sales in a C zone.

11. Under the applicable zoning regulations, the applicant has demonstrated that she is deprived of all economic use or benefit from the property in question since it cannot yield a reasonable return if continued solely as the pre-existing residential use, and the pre-existing small size of the parcel precludes it from yielding a reasonable return if devoted solely to uses permitted as of right in the C zone.

12. The hardship relating to the property in question is unique given the small size of the parcel and its historical usage for residential purposes when contrasted with the bulk requirements for properties in the C zone. It is the finding of this Board that this uniquely undersized parcel in the C zone is not representative of a substantial portion of the district or neighborhood.

13. It is the finding of this Board that the requested use variance will not alter the essential character of the neighborhood since the neighborhood presently contains a number of mixed uses in that many older residential structures are gradually converting over to uses permitted in the C zone.

14. The hardship faced by the applicant is not self-created; the applicant historically has used the property for residential purposes and has not urged, supported nor petitioned the Town of New Windsor to zone the property for commercial uses.

15. It is the further finding of this Board that the applicant has made a sufficient showing of practical difficulty to entitle her to the granting of the requested bulk variances.

16. The applicant has shown significant economic injury from the application of the bulk requirements to the subject property since the premises would be virtually unusable for any use permitted in the C zone without substantial bulk variances to accompany the use variance. The applicant offered evidence that it is uneconomic to continue to use the subject premises solely for residential purposes. At the same time, the small size of the site makes it undesirable for use solely for purposes permitted in the C zone.

17. The requested area variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

18. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

19. The requested area variances, excluding the requested lot area variance which is substantial, are not substantial in relation to the bulk regulations for lot width, front yard, side yard, total side yards and building height, given the fact that the dimensions of this property pre-exist the adoption of zoning by the Town of New Windsor. It is the finding of this Board that the variances granted hereby represent a reasonable adjustment of the applicant's rights to make use of the subject property given the pre-existing, non-conforming residential use thereof and the small size of the parcel or uses permitted as of right in the C zone.

20. The requested area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

21. The difficulty the applicant faces in conforming to the bulk regulations is not self-created.

22. It is the finding of this Board that the benefit to the applicant, if the requested area variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community by such grant.

23. It is the further finding of this Board that the requested area variances are the minimum variances necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

24. The interest of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

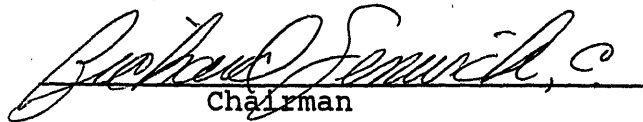
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT (1) a use variance to permit a change of use from pre-existing, non-conforming residential use to mixed use of retail sales by converting an existing residential garage to a flower shop and continuing the existing single-family residential use in a detached structure in a C zone, and the following area variances (2) 19,168.1 s.f. lot area variance, (3) 86 ft. lot width variance, (4) 33.1 ft. front yard variance, (5) 16.25 ft. side yard variance, (6) 1.95 ft. total side yard variance, (7) 10.42 ft. building height variance (area variances numbered 2 through 7 all apply to the conversion of the existing residential garage to retail sales as a flower shop), (8) 18.5 ft. side yard variance and (9) 21.2 ft. building height variance (area

variances 8 and 9 refer to the existing residence as a single-family dwelling), all sought by applicant in accordance with a plan filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: August 10, 1992.


Chairman

(ZBA DISK#8-081092.FD)

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION

(Variances, Zone Changes, Special Permits, Subdivisions, Site Plans)

Local File No. 28A
92-15.

1. Municipality Town of New Windsor Public Hearing Date 7/13/92.
☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board

2. Owner: Name Lorraine De Couto.
Address 132 Old Temple Hill Rd., New Windsor

3. Applicant*: Name _____
Address _____

* If Applicant is owner, leave blank

4. Location of Site: Off Rt. 300 - Temple Hill Rd.
(street or highway, plus nearest intersection)

Tax Map Identification: Section 68 Block 3 Lot 3

Present Zoning District C Size of Parcel 118x201 ±

5. Type of Review:

Special Permit: _____

Variance: ☒ Use (See application attached hereto)

☐ Area _____

Zone Change: From _____ To _____

Zoning Amendment: To Section _____

Subdivision: Number of Lots/Units _____

Site Plan: ☒ _____

6/19/92
Date

Patricia A. Baunhart, Secy.
Signature and Title

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR LORRAINE DE LOUVO	2. PROJECT NAME LORRAINE'S FLOWERS 'N' STUFF
3. PROJECT LOCATION: Municipality TOWN OF NEW WINDSOR County ORANGE	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc. or provide map) SEE SITE PLAN	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: MODIFY EXISTING RESIDENTIAL GARAGE INTO RETAIL SALES BUILDING	
7. AMOUNT OF LAND AFFECTED: Initially .5 ± acres Ultimately .5 ± acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: MIX OF EXIST. NON CONFORMING RESIDENTIAL & NEW COMMERCIAL USES	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals NYS. DOT - HIGHWAY WORK PERMIT	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: GUDMO ENGINEERING (MARTIN G. ROGERS) Date: 7/13/92	
Signature: Martin G. Rogers	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

PART II—ENVIRONMENTAL ASSESSMENT

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>PLANNING BOARD - LEAD AGENCY</u>	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: <u>NO</u>	
C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: <u>NO</u>	
C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: <u>NO</u>	
C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: <u>NO</u>	
C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly. <u>NO</u>	
C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly. <u>NO</u>	
C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly. <u>NO</u>	
D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly	

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- ☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:

TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS
 (AS AN INVOLVED AGENCY) Name of Lead Agency

RICHARD FENWICK

Print or Type Name of Responsible Officer in Lead Agency

CHAIRMAN

Title of Responsible Officer

Richard Fenwick
 Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

JULY 13, 1992

Date

Date 7/24/92, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

TO Frances Roth 389 Marces Hill Rd DR.
New Windsor Ny 12550

DATE	CLAIMED	ALLOWED
7/17/92	75 00	
Zoning Board Misc -		
Grubel - 6 - 27.00		
De Couto - 8 - 36.00		
Beltz - 4 - 18.00		
DiGisco - 5 - 22.50		
Preunen - 6 - 27.00		
Serbellu - 6 - 27.00		
	237 00	

July 13, 1992

8

PUBLIC HEARING: DE COUTO, LORRAINE

MR. FENWICK: This is a request for (1) 19,168.1 square foot lot area, (2) 86 foot lot width, (3) 33.1 foot front yard, (4) 16.25 foot side yard, (5) 1.95 foot total side yards, (6) 10.42 foot building height variances for retail conversion to flower shop and (7) 18.5 foot side yard and (8) 21.2 foot building height variances for residence in order to convert to retail sales on property located on Route 300/Temple Hill Road in C zone.

Mr. Martin Rogers of Cornwall Engineering came before the Board representing this proposal.

MR. FENWICK: Is there anyone here in the public in reference to this?

MR. ROGERS: This is an illustrated site plan showing this site and the existing residence at this location and you have the existing garage at this point and an existing gravel driveway goes directly through the property. Proposal is to put in a parking lot for this building change over to retail, have a fence that can be moved in case emergency vehicles need to get around the back of this building and keep their existing gravel drive in back for residents. So, I have photos showing from both Temple Hill Road and Old Temple Hill Road, they go in order around the house, the first photo is of the residence, the front of the residence. Copy of the deed and original title policy.

MR. LUCIA: I'll just take a look at it and return it to you.

MR. FENWICK: You can keep on going.

MR. LUCIA: Thank you for the deed and title policy which I'll return to you. I see there's reference in there to recorded covenants, easements, rights, conditions, whatever. Is there anything entitled to this property to your knowledge which would prevent you from constructing what you propose to construct should this Board grant you a variance thereon and should you get approval from the Planning Board?

MR. ROGERS: No, because we still have full egress and

rights over all the areas and the buildings are existing.

MR. LUCIA: Thank you.

MR. ROGERS: We are also requesting a variance to keep the residential use still remaining on this site as the owners already do live there and we'd like to keep that in effect because they'd like to still reside in that location. We, everything on either side right now is residential but the block itself has been converted to commercial use for quite some time now and we feel that they would have the best use of their property with converting this residential garage into a retail store for Mrs. DeCouto's business.

MR. LUCIA: Well, we're in a unique situation since it's a change of use, they need to, in site plan approval they are proposing to establish a retail sales use which they would have as of right under the C zone, that's not a problem. They however want to continue to reside and since they are substantially deficient and really don't meet a caretaker's apartment requirements, we really viewed it as it necessitating a use variance to continue to reside there, even though that was a pre-existing nonconforming use, it's kind of a hybrid situation and certainly the applicant, I think, in questioning him their basis for continuing to reside there but I think as a matter of precedent, we don't want to absolutely allow any residence change or commercial use to continue. I think we'll need to give them the opportunity to come in and apply for a variance, I think to do otherwise establishes a precedent. You may not want future use.

MR. FENWICK: Do we have that listed as one of the items?

MR. LUCIA: Yes, this is on for both use and area variance.

MR. BABCOCK: There should be two denials, Mr. Chairman, one for house and one for the flower shop.

MR. LUCIA: I think the agenda doesn't address it.

MR. BABCOCK: We did break that down as per the request of the Board at the preliminary.

MR. LUCIA: The legal notice which was published and sent to the neighbors specifies the use retail and residential and then goes on to specify the area variance.

MR. ROGERS: We have amended the bulk table to show that clearly, the two different uses.

MR. BABCOCK: On the agenda where it says and that is where is where the residential takes on goes through flower shop and then the word and after the word and is what is required for the residential.

MR. FENWICK: I realize that but in the agenda as I was reading the agenda, it didn't mention anything about a use.

MR. LUCIA: This is on for both use and area variances. In that connection, I noticed the checks you submitted were one for \$50 and \$250, I think the minutes says \$250 should be \$500 because it's a use variance. If you just submit another check for \$250.

MR. ROGERS: Yes.

MR. FENWICK: Applicant doesn't own any contiguous land?

MR. ROGERS: Not at all.

MR. FENWICK: How long has the applicant lived here?

MRS. DE COUTO: Since '84.

MR. LUCIA: This has been residential since before zoning to your knowledge?

MR. ROGERS: To our knowledge, yes.

MR. FENWICK: You're not adding onto anything?

MR. ROGERS: Not at all, not changing the footprint of the building, all just converting the one building over.

MR. FENWICK: Not going higher than it is?

MR. ROGERS: No, exactly the same.

MR. LUCIA: With the respect to the use variance, three-part test on that for unnecessary hardship and that remains unchanged under the new law. Is it the applicant's position that the land cannot yield a reasonable return if you saw any purpose allowed in the zone in other words, in dollars and cents, can she get a reasonable return on the property?

MR. ROGERS: If it's continuing to remain as residential, no, she cannot.

MR. LUCIA: If the variance is granted and she has this mixed commercial/residential use is it your opinion that she then would be able to get a reasonable return on the property?

MR. ROGERS: Yes.

MR. LUCIA: Is he plight unique in terms of the zoning on this parcel? You mentioned that the neighbors are also residential but the neighborhood is converted.

MR. ROGERS: Neighborhood is converting and the buildings are already pre-existing so the required area variances are already nonconforming to the present zoning.

MR. LUCIA: How does the size of this parcel relate to some of the other parcels about the same?

MR. ROGERS: They are pretty much the same along the block, yes.

MR. LUCIA: If the Board grants this variance, will the new use substantially alter the character of the neighborhood?

MR. ROGERS: No.

MR. LUCIA: And the applicant has done nothing to create her own hardship? She hasn't participated in the rezoning or anything like that?

MR. ROGERS: No.

MR. FENWICK: Do we know that they have such parking to

handle this situation? *

MR. BABCOCK: Yes, it's been reviewed by the Planning Board and referred.

MR. NUGENT: Is this right down the street from the one we had a couple of weeks ago?

MR. FENWICK: Yes, two lots away.

MR. LUCIA: Let's turn to a couple of the area variance, if I could address a couple of the area variance issues separately now. The area variances with regard to the existing residence are not generated by this application, that's all existing?

MR. ROGERS: That's all existing.

MR. LUCIA: With regard to the flower shop, there are two variances by this application, is that right?

MR. ROGERS: I believe there are more than that.

MR. TANNER: Two are for the residence.

MR. ROGERS: House requires two.

MR. LUCIA: So, we have six for the --

MR. ROGERS: Six for the flower shop.

MR. LUCIA: If the Board grants the variances granted the variances requested, in your opinion, would this be an undesirable change to the character of the neighborhood?

MR. ROGERS: No.

MR. LUCIA: Would it be a detriment to nearby properties?

MR. ROGERS: No.

MR. LUCIA: Is there any other way the applicant could achieve this result other than through a variance?

MR. ROGERS: Not with the site in question, no.

MR. LUCIA: Given the land available, are the variances sought substantial?

MR. ROGERS: Except for the lot area but that is uncontrollable amount.

MR. LUCIA: She has not subdivided?

MR. ROGERS: She has not subdivided, no.

MR. LUCIA: Will this have an adverse effect on the conditions of the neighborhood?

MR. ROGERS: No.

MR. LUCIA: Okay, thank you.

MR. FENWICK: Any other questions from Members of the Board? The main entrance is going to go off Temple Hill Road?

MR. ROGERS: Yes.

MR. FENWICK: Route 300?

MR. ROGERS: Yes.

MR. FENWICK: I'll ask for a motion to grant the variance. Before we do that -- we don't have notice from the county yet?

MR. LUCIA: Yeah, we do have a notice from the county.

MR. FENWICK: I'll open it up to the public again. We have notice back from the county and there comments are there are no significant intercommunity or countywide concerns to bring to your attention. At this time, I'll open it up to the public. Anyone here that has any comments in reference to this application? I guess not, I'll now close the hearing to the public and open it back up to the Members of the Board.

MR. LUCIA: This is a use variance so we have some SEQRA housekeeping to do. I think first thing the Board should entertain a motion to declare itself an involved agency in this application assuming that the Planning Board has or ultimately will declare it to be lead agency, in regard to the proposed application.

July 13, 1992

14

MR. TANNER: So moved.

MR. KONKOL: I'll second it.

ROLL CALL:

Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Konkol	Aye
Mr. Fenwick	Aye

MR. LUCIA: Applicant has submitted the short form environmental assessment form that it's available and it has touched on some of the issues in this application tonight. If the Board feels it is in order, I think a motion to make a negative declaration under SEQRA would be in order meaning that there are no adverse environmental impacts from the proposed use variance requested. A motion to make a negative declaration.

MR. NUGENT: I'll make that motion.

MR. KONKOL: I'll second it.

ROLL CALL:

Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Konkol	Aye
Mr. Fenwick	Aye

MR. LUCIA: Now a motion on the use variance and the area variance would be in order.

MR. NUGENT: Can we make them as one?

MR. LUCIA: That is up to you. There are quite a few area variances together.

MR. KONKOL: Let's take them all as one. I make that motion.

MR. NUGENT: I'll second it.

July 13, 1992

15

ROLL CALL:

Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Konkol	Aye
Mr. Fenwick	Aye

MR. LUCIA: Drop off the second check for \$250 to Pat
at some time.



MARY MCPHILLIPS
County Executive

Rec'd 7/10/92
R.M.

**Department of Planning
& Development**

124 Main Street
Goshen, New York 10924
(914) 294-5151

PETER GARRISON Commissioner
VINCENT HAMMOND Deputy Commissioner

**ORANGE COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
239 L, M or N Report**

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and Countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by Town of New Windsor

D P & D Reference No. NWT 19 92 M

County I.D. No. 68 / 3 / 3

Applicant Lorraine De Couto

Proposed Action: Use Variance - Conversion of garage to flower shop

State, County, Inter-Municipal Basis for 239 Review Within 500' of NYS Rte. 300

Comments: There are no significant Inter-Community or Countywide concerns to bring to your attention.

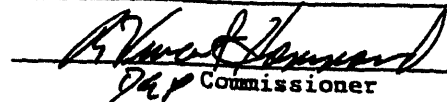
Related Reviews and Permits _____

County Action: Local Determination XX Disapproved _____ Approved _____

Approved subject to the following modifications and/or conditions: _____

7/7/92

Date


Dep. Commissioner

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----X
In the Matter of Application for Variance of

Lorraine De Coueto.

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#92-15-----X

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On July 1, 1992, I compared the 29 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
day of , 19 .

Notary Public

(TA DOCDISK#7-030586.AOS)

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 15

Request of LORRAINE DE COUTO and TERRY DE COUTO

for a VARIANCE of

the regulations of the Zoning Local Law to

permit a mixed use of retail and residential with insufficient lot area, width, front yard, side yard, and more than the allowable bldg. hgt. for retail store, and insufficient side yard and more than the allowable bldg. hgt. for residence; being a VARIANCE of

Section 48-9. Table of Use/Bulk Regs. Col. A and 48-12 Table of Use/Bulk Regs. Cols. C,D,E,F and I for property situated as follows:

132 Old Temple Hill Road/
Route 300 - Temple Hill Road, New Windsor, N. Y.

known and designated as tax map Section 68 - Blk. 3

Lot 3.

SAID HEARING will take place on the 13th day of July, 1992, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y. beginning at 7:30 o'clock P. M.

RICHARD FENWICK
Chairman

APPLICATION FOR VARIANCE

Date: June 15, 1992

(a) LORRAINE and TERRY DE COUTO, P. O. Box 4537, 132 Old Temple Hill Rd. x
(Name, address and phone of Applicant) New Windsor, NY (Owner)

(b) -
(Name, address and phone of purchaser or lessee)

(c) -
(Name, address and phone of attorney)

(d) -
(Name, address and phone of contractor/engineer/architect)

(\overline{x})	Use Variance	$(\overline{\quad})$	Sign Variance
(\overline{x})	Area Variance	$(\overline{\quad})$	Interpretation

(a) C 132 Old Temple Hill Road/Temple Hill Rd. 68-3-3 118 x 201+
(Zone) (Address) (S B L) (Lot size)

(b) What other zones lie within 500 ft.? n/a

(c) Is a pending sale or lease subject to ZBA approval of this application? No.

(d) When was property purchased by present owner? Sept. 1984.

(e) Has property been subdivided previously? No.

(f) Has property been subject of variance previously? No.
If so, when? -.

(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.

(h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A

(a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow:
(Describe proposal) (See annexed information)

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(See annexed information)

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. C,D,E,F,I.

	Requirements	Proposed or Available	Variance Request
	Min. Lot Area 40,000 s.f.	20,831.9 s.f.	19,168.1 s.f.
	Min. Lot Width 200 ft.	114.0 ft.	86 ft.
	Reqd. Front Yd. 60 ft.	26.9 ft.	33.1 ft.
	Total Side Yd. 70 ft.	68.05 ft.	1.95 ft.
	Reqd. Side Yd. 30 ft.	13.75 ft.	16.25 ft.
House:	" " " 30 ft.	11.5 ft.	18.5 ft.
	Reqd. Rear Yd. 30 ft.	n/a	n/a
	Reqd. Street Frontage* n/a	n/a	n/a
	Max. Bldg. Hgt. 4"/ft.=4.58 ft.	15 ft. existing=15 ft.	10.42 ft.
House:	" " " 3.8 ft.	25 ft.	21.2 ft.
	Min. Floor Area* n/a	n/a	n/a
	Dev. Coverage* n/a %	n/a %	n/a %
	Floor Area Ratio** 0.5	0.06	n/a
	Parking Area 6	6	0

* Residential Districts only

** No-residential districts only

(b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.

(See annexed information)

VI. Sign Variance: n/a

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____

n/a

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

n/a

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Conversion of garage to retail flower shop with glass store front. Three-quarters of shop will be retail with one-quarter remaining for storage purposes. The quality of the zone, which is commercial, will be maintained by Applicant

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- x Copy of tax map showing adjacent properties.
- n/a Copy of contract of sale, lease or franchise agreement.
- x Copy of deed and title policy.
- x Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- n/a Copy(ies) of sign(s) with dimensions and location.
- x Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$250.00, each payable to the TOWN OF NEW WINDSOR.
- x Photographs of existing premises from several angles.

X. Affidavit.

Date: June 15, 1992

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Lorraine De Couto
(Applicant)
By: Lorraine De Couto

Sworn to before me this

19th day of June, 1992.

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1993.

XI. ZBA Action:

(a) Public Hearing date: _____

(b) Variance: Granted () Denied ()

(c) Restrictions or conditions:

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

RE: DE COUTO, LORRAINE - (LORRAINE'S FLOWER 'N STUFF) #92-15
CONVERSION TO RETAIL SALES, RETAINING SINGLE-FAMILY
RESIDENCE IN C ZONE
LOCATION: 132 OLD TEMPLE HILL ROAD

Applicant presently is the owner of a piece of property located in a C (design shopping) zone and it is the intention of the applicant to convert the detached garage to retail sales (flower shop) by adding a glass store front. This use is permitted in the C zone. There is also a residential dwelling located on the premises wherein the applicant resides. The residential dwelling is a legal pre-existing non-conforming use and requires a use variance for applicant to remain a resident of the house once the retail sales use is added to the other structure. This application involves changing the residential use of the property without any physical changes other than the addition of the glass store front.

The residential dwelling is located in a C zone and this mere fact creates a hardship because applicant's residence cannot conform to the use or bulk regulations in the C zone due to its pre-existing non-conforming status. Therefore, applicant must seek the area and use variances requested in the application in order to be able to utilize the property as it is presently zoned.

When the Town Board created the C zone, applicant's substandard lot was already pre-existing and there would be no way that Applicant could conform to the bulk regulations in a C zone if she were to convert her single-family residential dwelling to retail use. For this reason Applicant feels that she meets the legal test of practical difficulty since she would never be able to conform to the requirements in a C zone.

Applicant feels that by upgrading her parcel to commercial use she would be able to obtain a reasonable return for her investment compared to what the parcel would be worth if it was to remain a residential use, only, in a C zone. The fact that there are so many adjacent parcels converting over to the commercial use and there are only a few remaining residential dwellings in this area further prompts applicant to convert to retail thereby protecting her investment in the parcel.

Applicant feels that the aforesaid circumstances and conditions are such that the strict application of the provisions of the local law would deprive the applicant of a reasonable use of her land since it is a pre-existing residential parcel located within a commercial zone.

Applicant also feels that the plight of the applicant is due to unique circumstances and not to general conditions suffered by other persons within the same zone because of the fact that the property was previously used as a residence in a commercial zone.

The proposed variance will not result in substantial detriment to the adjoining properties or change the character of the neighborhood because the residence is pre-existing and non-conforming, but the area is commercial in nature.

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

Prelim:

May 11th

7:30

pm

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 92-18

DATE: May 6, 1992

APPLICANT: De Couto, Terry (Lorraine's Flower-N-Stuff)
Rte. 300 Temple Hill Rd. (P.O. Box 4537)
New Windsor, N.Y. 12553

565-3261

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED April 13, 1992

FOR (~~SUBDIVISION~~ - SITE PLAN)

LOCATED AT N.Y.S. Rte. 300 (East Side)

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 68 BLOCK: 3 LOT: 3

IS DISAPPROVED ON THE FOLLOWING GROUNDS: CONVERSION OF USE

RESULTS IN NEED FOR AREA, LOT WIDTH, FRONT YD.,

SIDE YD., TOTAL SIDE ~~YD.~~, BLDG. HT. VARIANCES.

VARIANCE MAY ALSO BE REQUIRED FOR MIXED (SEPARATED)
SINGLE FAMILY USE AND RETAIL USE ON ONE SITE.

PLANNING BOARD CHAIRMAN

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>C</u> USE <u>A-1</u>		
MIN. LOT AREA	<u>40,000 S.F.</u>	<u>20,831.9</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>114.0</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>26.9</u>
		<u>19,168.1</u>
		<u>86</u>
		<u>33.1</u>

DELOUTO, Jerry (Lorraine's Flower - n - Stuff) 565-3261
Rte. 300 Temple Hill Rd. (P.O. Box 4537)
New Windsor, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED April 13, 1992
FOR (~~SUBDIVISION~~ - SITE PLAN)

LOCATED AT N.Y.S. Rte. 300 (East Side)

ZONE C
DESCRIPTION OF EXISTING SITE: SEC: 68 BLOCK: 3 LOT: 3

IS DISAPPROVED ON THE FOLLOWING GROUNDS: CONVERSION OF USE
RESULTS IN NEED FOR AREA, LOT WIDTH, FRONT YD.,
SIDE YD., TOTAL SIDE YD., BLDG. HT. VARIANCES.
VARIANCE MAY ALSO BE REQUIRED FOR MIXED (SEPARATE)
SINGLE FAMILY USE AND RETAIL USE ON ONE SITE.


PLANNING BOARD CHAIRMAN

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>C</u>	USE <u>A-1</u>		
MIN. LOT AREA	<u>40,000 SF</u>	<u>20,831.9</u>	<u>19,168.1</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>114.0</u>	<u>86</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>26.9</u>	<u>33.1</u>
REQ'D SIDE YD.	<u>30 FT</u>	<u>13.75</u>	<u>16.25</u>
REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>68.05</u>	<u>1.95</u>
REQ'D REAR YD.	<u>30 FT</u>	<u>N/A</u>	<u>N/A</u>
REQ'D FRONTAGE	<u>N/A</u>	<u>—</u>	<u>—</u>
MAX. BLDG. HT.	<u>4' FT = 4.58'</u>	<u>EXISTING HT = 15'</u>	<u>10.42</u>
FLOOR AREA RATIO	<u>0.5</u>	<u>0.06</u>	<u>—</u>
MIN. LIVABLE AREA	<u>N/A</u>	<u>—</u>	<u>—</u>
DEV. COVERAGE	<u>N/A</u> %	<u>—</u> %	<u>—</u> %
O/S PARKING SPACES	<u>6</u>	<u>6</u>	<u>0</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

April 22, 1992

17

LORRAINE'S FLOWERS SITE PLAN (92-18) ROUTE 300

Mr. Martin Rogers came before the board representing this proposal.

MR. PETRO: Water has been approved and fire is approved on this.

MR. ROGERS: We're here to present proposed site plan to convert existing garage that's on the same lot as residence and have you take a look at it, see how you feel before it gets sent to the Zoning Board to get our variances. We have a lot of existing non-conforming uses.

MR. PETRO: We did do a site visit here also gentlemen.

MR. VAN LEEUWEN: I make a motion we approve it.

MR. SCHIEFER: I'll second it but that isn't, he's not looking just to be sent out, he asked for concept.

MR. VAN LEEUWEN: My suggestion is this, the building is already existing, all we really got to consider is the parking lot. Let the Zoning Board get it over with and then come back to us and we can approve it.

MR. PETRO: Conceptually, it's okay. There's no drive-thru's and that's on the plan I see.

MR. VAN LEEUWEN: There's minor changes that might have to be made.

MR. PETRO: We'll address everything else when it comes back.

MR. SCHIEFER: There are no major objections if the ZBA grants the variance.

MR. PETRO: That's what I am hearing. We have a motion.

MR. SCHIEFER: I'll second it.

ROLL CALL

MR. VAN LEEUWEN	NO
MR. LANDER	NO
MR. SCHIEFER	NO
MR. PETRO	NO



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

- ☐ Main Office
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- ☐ Branch Office
400 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS

PROJECT NAME: LORRAINE'S FLOWERS-N-STUFF (DECOUTO) SITE PLAN
PROJECT LOCATION: OLD TEMPLE HILL ROAD AND TEMPLE HILL ROAD (RT 300)
SECTION 68-BLOCK 3-LOT 3
PROJECT NUMBER: 92-18
DATE: 22 APRIL 1992
DESCRIPTION: THE APPLICATION INVOLVES THE CONVERSION OF AN
EXISTING GARAGE TO A RETAIL SALES AREA. THE
APPLICATION WAS REVIEWED ON A CONCEPT BASIS ONLY.

1. The property is located within the "C" Zone. The proposed use is a Use Permitted By Right; however, the "Mixed Use" of the property to include a single family dwelling creates a non-conformance.

In addition, the bulk requirements for the retail use are not satisfied, based on the existing conditions of the lot. As such, area variances will be necessary.

All necessary use and area variances should be clearly defined on the plan, prior to referral to the Zoning Board of Appeals.

2. The Board may wish to make a concept review of this application, advising the Applicant of any concerns, prior to referring the application to the Zoning Board of Appeals.

Respectfully submitted,

Mark J. Edsall, P.E.
Planning Board Engineer

MJEmk

A:LORRAIN.mk

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 92-18 DATE: 5-12-92

APPLICANT: De Couto, Terry (Lorraine's Flower-n- Stuff)
Rte. 300 - Temple Hill Rd. (P.O. Box 4537) 565-3261-
New Windsor, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED April 13, 1992

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT N.Y.S. Rte. 300 (East Side)

_____ ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 68 BLOCK: 3 LOT: 3

IS DISAPPROVED ON THE FOLLOWING GROUNDS: (House)

Insufficient side yard

Insufficient Building Height.


PLANNING BOARD CHAIRMAN *for James Petro*

<u>REQUIREMENTS</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>C</u>	USE <u>A1</u>		
MIN. LOT AREA			
MIN. LOT WIDTH			
REQ'D FRONT YD			
REQ'D SIDE YD.	<u>30'</u>	<u>11.5'</u>	<u>18.5'</u>
REQ'D TOTAL SIDE YD.			
REQ'D REAR YD.			
REQ'D FRONTAGE			
MAX. BLDG. HT.	<u>3.8</u>	<u>25'</u>	<u>21.2</u>

..... DE LOUVO, Jerry (Lorraine's Flower-N-Stuff)
Rte. 300 - Temple Hill Rd. (P.O. Box 4537) 565-3261-
New Windsor, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED April 13, 1992

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT N.Y.S. Rte. 300 (East Side)

_____ ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 68 BLOCK: 3 LOT: 3

IS DISAPPROVED ON THE FOLLOWING GROUNDS: (House)

Insufficient side yard

Insufficient Building Height.


PLANNING BOARD CHAIRMAN *for James Petro*

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>C</u>	USE <u>A1</u>		
MIN. LOT AREA	_____	_____	_____
MIN. LOT WIDTH	_____	_____	_____
REQ'D FRONT YD	_____	_____	_____
REQ'D SIDE YD.	<u>30'</u>	<u>11.5'</u>	<u>18.5'</u>
REQ'D TOTAL SIDE YD.	_____	_____	_____
REQ'D REAR YD.	_____	_____	_____
REQ'D FRONTAGE	_____	_____	_____
MAX. BLDG. HT.	<u>3.8</u>	<u>25'</u>	<u>21.2</u>
FLOOR AREA RATIO	_____	_____	_____
MIN. LIVABLE AREA	_____	_____	_____
DEV. COVERAGE	_____ %	_____ %	_____ %
O/S PARKING SPACES	_____	_____	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

Date 6/13/92, 19.....

TOWN OF NEW WINDSOR

(7)

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

TO Frances Roth 38a Moores Hill DR.

New Windsor, Ny 12553

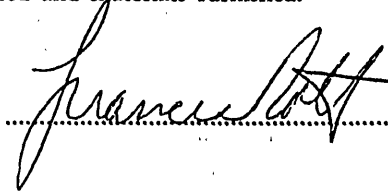
DATE			CLAIMED	ALLOWED
5/11/92	Zoning Board Meeting		75	00
	Misc - 1			
	DeDominicis - 1			
	Mugnano - 8 pgs			
	Bonet - 11 pgs			
	Fitzgerald - 6			
	Shupe - 3			
	De Cauto - 8	36.00		
	Borden - -10			
			291	00

STATE OF NEW YORK,
TOWN OF NEW WINDSOR

ss.

I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here



No.

Town of New Windsor

Nature

Amount Claimed \$

Amount Allowed \$

Filed

I hereby certify that at a meeting of

said Town Board held at the office of the

Town Clerk on the day

of, 19.....

the within claim was audited and allowed

for the sum of

\$

Clerk

May 11, 1992
DE COUTO, TERRY

31

MR. FENWICK: Referred by Planning Board. Request for (1) 19,168.1 square foot lot area, (2) 86 ft. lot width (3) 33.1 front yard, (4) 16.25 ft. side yard (5) 1.95 ft. total side yard in order to convert a garage over to retail use (flower shop), retaining the single-family use at Old Temple Hill Road and Route 300 in a C zone.

Mr. Martin Rogers came before the Board representing this proposal.

MR. ROGERS: The DeCouto's live in this residence now and have been using this residential garage for four years now, was the original building permit.

MR. BABCOCK: Right.

MR. ROGERS: Mrs. DeCouto would like to, she does flower arranging for parties, stuff like that, open a retail shop in this garage. We have three quarters of the garage for retail space and the balance one quarter left for storage.

MR. FENWICK: This is the fairly new garage like the brown block?

MR. ROGERS: Yes diagonally across from the Minute Man.

MR. FENWICK: And the outside is not going to be changed?

MR. ROGERS: Right now there's in the front there's plate glass store front that Mr. DeCouto had put in last year in preparation to open for the shop and that's when Mike and Frank picked up on it and they're back here now a year later cause they had to straighten out the finances to be able to go through the full process.

MR. FENWICK: Mike, on what standard were they given a building permit for this building?

MR. BABCOCK: For residential garage.

MR. LUCIA: The application raises an interesting question that Mark Edsall points out in his comments to the Planning Board. They're proposing to use this for retail sales which is now a use permitted of right in the C zone. The problem is that they apparently are going to continue to live in the residence, that's a pre-existing exist non-conforming use. And apparently is going to require a use variance for them to stay on the house as the same property once they add retail sales in the garage. There's really no way they can come under the caretakers provision because that would require 20 acres you need.

MR. FENWICK: Original area variances on that provision and also special permit from the Planning Board on that provision in the C zone. It's kind of unique because the application doesn't involve any physical change in the premises. The area variance as you see before you basically arises because of the change of use but that change of use now makes the existing residential use a non-conforming one and probably require a use variance that's in the C zone. It's a funny application.

MR. TANNER: There's no way it can be a caretakers.

MR. LUCIA: The C zone table column B use allows special permit for the caretakers house but that line goes across 20 acres and very large sites so he would be applying for very substantial area variances to meet that obviously it was not designed for that type of operation.

MR. TORLEY: Existing use of the residential part of the building is not changing.

MR. LUCIA: Right it's pre-existing non-conforming as it sits but by virtue of the fact that he now wants to open a retail shop which is an use permitted by right. It involves changing that residential use. It's a funny application the way it comes in.

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MR. TORLEY: I'm not convinced that opening up a flower shop behind his existing residence means existing residence now no longer can be there.

MR. LUCIA: That certainly is going to be part of his application. I think the problem is I don't think you want to establish a precedent town-wide saying that any application that comes in like this you don't want an opportunity to review that residential use. That seems to be opening up problems that are unforeseen at this point.

MR. FENWICK: Right in this area.

MR. BABCOCK: In my opinion I don't think you can call it a caretakers apartment because it's not in the same building and if you read the code the code says within a commercial building.

MR. LUCIA: That's a good point and this is a separate building also in that connection. I notice on your area variance calculations, you're looking for an 11 foot or the existing house is 11 1/2 feet side yard which is less than the 13.3/4 foot side yard for the proposed probably you need two separate side yard variance applications or the minimal.

MR. ROGERS: Or the minimal that's why we put both down.

MR. LUCIA: Looked like from the minutes you're only looking for the one on the flower shop, you probably need one on the house also and you might check the numbers to see if that affects total side yard, might be an amendment on both of those numbers. It's a question the board should consider. I would just while Mr. Torley's comment is welcome, I'm into too sure you want to set a precedent of forever ignoring this type of issue.

MR. TORLEY: But we don't set precedents.

MR. LUCIA: Well you don't but if you establish a different rule for a different applicant he's going to

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argue you did set a precedent.

MR. TANNER: We may run into the same problem with homes in the same area. There are a lot that fall into the same category.

MR. FENWICK: Dan, you spoke about two different side yards here, why wouldn't the lesser side yard be the only one that would be looked at at this time.

MR. LUCIA: Normally that would be the case but since this is physically two separate buildings it might be clearer to establish two separate side yards applications, one for the residential building, one for the flower shop.

MR. BABCOCK: When we did this referral to the ZBA, we based on the flower shop, we didn't touch the single family residence because we don't have one down there for the single family.

MR. LUCIA: Paul's map showed both but it looked like it came in only on the flower shop.

MR. BABCOCK: We thought that that was the one that was.

MR. FENWICK: One of the things we have to look at is even though the applicant is still living in the house or whatever for this use it's still commercial use and if they were to come back tomorrow and say okay, I've decided to like down the street make this house a business, they're entitled to do so. I think probably we should be looking at this whole parcel of property and just like Dan said, we have two side yard variances. Let's approach all the buildings that are there, get them all lined up for now. That's what it is zoned for.

MR. ROGERS: That will effect the building height.

MR. LUCIA: You look like you might be close on the front yard on the residence. You might want to check that number, 60 feet is required.

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MR. ROGERS: 62.2 that's right off the machine so I'll doublecheck it though.

MR. BABCOCK: We're going to need total side yard.

MR. ROGERS: Or whatever is more restrictive because this is a smaller dimension.

MR. BABCOCK: We'll do two different ones. We'll make a denial for the house and we'll make a denial for the building.

MR. LUCIA: Good. The house will need a height variance too then.

MR. ROGERS: Yes.

MR. FENWICK: Basically now we're setting the property up as commercial piece of property. So we might as well approach the whole think I mean get it all done.

MR. TANNER: If it's ever sold, it's going to be sold as a commercial piece, not with the residence on it so.

MR. FENWICK: If in fact the variance were granted that can be residential then you're all set.

MR. BABCOCK: So if we revise the, leave this denial the way it is and make one for the house, we'll be set.

MR. LUCIA: Sure.

MR. FENWICK: Is there anything in the code to save me a look about two buildings on one parcel on one commercial lot as far as separation or anything else like that?

MR. BABCOCK: No you have some separation distances. The only time they'll come into play is the type of construction and what the uses of the buildings are and that will come later on with the building construction. As you know this is a block building completely masonry.

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MR. FENWICK: Just to get this straight Dan he will need a use on the residential.

MR. LUCIA: Use on the residence even though it's continuing existing use in the commercial zone after a change of use and area variances on both the existing house on the proposed flower shop.

MR. FENWICK: So I know you're familiar if you want them read off to you what they're going to need with the use to get that all squared away, you can come back to the public hearing if you want to come back to a preliminary that's up to you.

MR. ROGERS: We'll go straight to the public hearing.

MR. LUCIA: You have two separate hoops to go through, one on the use variance which requires a showing of unnecessary hardship and that's the three part test with showing why the land can't yield a reasonable return if used for the purpose allowed in the zone, that's basically dollars and cents argument, two that the owner's plight is unique and three, that the variance requested will not alter the essential character of the location. Second hoop is on the area variance that's the practical difficulty showing that the applicant has to show significant economic injury from the application of the ordinance to his lot, through the several area variances your seeking. Application fees this is commercial so that would be \$150 application fee to the Town of New Windsor and a \$500 deposit since it's use an area variances together, for town consultant fees and various town disbursements. This will also need County referral and I think that covers it. Like to see some photographs of the site please and also copy of the deed and title policy.

MR. BABCOCK: If this went to the County for the Planning Board, would it also need referral from this board?

MR. LUCIA: I think it does because they're separate

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applications.

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MR. BABCOCK: You have to give me those numbers, the height of the house, side yards total side yards, that's it.

MRS. BARNHART: You also have to add onto this notice of denial.

MR. BABCOCK: I'm going to give you the new one for the house which is going to include height ~~side yard~~ ~~and total side yard~~. This one in the file stands for the flower shop. We'll have a new one just for the house.

*Incorrect -
No total
side yd. variance
needed*

MR. TORLEY: How do we set him up.

MR. FENWICK: I don't think this is going to be a problem what we're looking at not going to change anything.

MR. ROGERS: Nothing.

MR. FENWICK: All building will remain as they are.

MR. ROGERS: Yes.

MR. BABCOCK: We can do these numbers tomorrow morning, I mean we can probably do them right now.

MR. LUCIA: The notice of denial is going to conform to what's already on the record at this meeting and the existing maps. There's no new construction on the site.

MR. ROGERS: No, just the parking and that's it.

MR. FENWICK: Any other questions from the members of the board? Motion to set him up for a public hearing?

MR. TANNER: Make a motion we set him up for a public hearing.

MR. NUGENT: I'll second it.

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ROLL CALL

MR. TORLEY	AYE
MR. TANNER	AYE
MR. NUGENT	AYE
MR. FENWICK	AYE



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TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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June 17, 1992

Lorraine & Terry DeCouto
132 Old Temple Hill Rd.
New Windsor, NY 12553

Re: Variance List 500 ft./ 68-3-3

Dear Mr. & Mrs. DeCouto:

According to our records, the attached list of property owners are within five hundred (500) ft. of the above referenced property.

The charge for this service is \$45.00, minus your deposit of \$25.00. Please remit balance of \$20.00 to the Town Clerk's Office.

Sincerely,

L. Cook

LESLIE COOK
Sole Assessor

LC/cad
Attachment
cc: Pat Barnhart

18
Morey, Frank A. & Lois A.
Mertes Lane
New Windsor, NY 12553

Sherwood, Marcia J.
5 Putnam St.
Newburgh, NY 12550

Property Tax Dept.
P.O. Box 8499
Philadelphia, PA 19101

Rashbaum, Gilbert
P.O. Box 7002 5 Meadow Hill Rd.
Newburgh, NY 12550

Gualtieri, Clarence & Lorraine
32 Stony Run Rd.
Newburgh, NY 12550

Kodsi, Moshe & Godsí Mayer
P.O. Box 575
Vails Gate, NY 12584

Orange County I.D.A.
c/o Strober King Building Supply
P.O. Box 726
Vails Gate, NY 12584

Strober, Eric D. & John Yankulis
c/o Temple Hill Property
550 Hamilton Ave.
Brooklyn, NY 11232

Manning, Thomas & Kathleen I.
2 Creek Run Rd.
Newburgh, NY 12550

Trifilo, William J. & Etta
Box 55
Vails Gate, NY 12584

Sheafe, Wayland H. & Joy C.
Box 21 Route 207
Rock Tavern, NY 12575

Panella, Emilio
P.O. Box 573
Vails Gate, NY 12584

Tornatore, Antonio & Gemma
82 Continental Dr.
New Windsor, NY 12553

Nichols, Walter L. & Lovella
P.O. Box 579
Vails Gate, NY 12584

Betrix, David B. & Elizabeth A.
P.O. Box 465
Vails Gate, NY 12584

Taravella, Frances T.
Box 94 Old Temple Hill Rd.
Vails Gate, NY 12584

Andrews, Eugene L. & Ruth
P.O. Box 292
Vails Gate, NY 12584

Dedominicis, Antonio & Giencinta
P.O. Box 327
Cornwall, NY 12518

Banks, Earnest & Ruth
125 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Reilly, John T. & Marina A.
133 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Feinberg, Joel & Talietha
P.O. Box 951
Vails Gate, NY 12584

Morange, William A. & Diana A.
149 Vails Gate Hgts. Dr.
New Windsor, NY 12553

Town of New Windsor
555 Union Ave.
New Windsor, NY 12553

Parisi, Dominick S. & Lucille
53 Highview Ave.
Newburgh, NY 12550

Consolidated Rail Corp.
6 Penn Center Plaza
Philadelphia, PA 19103

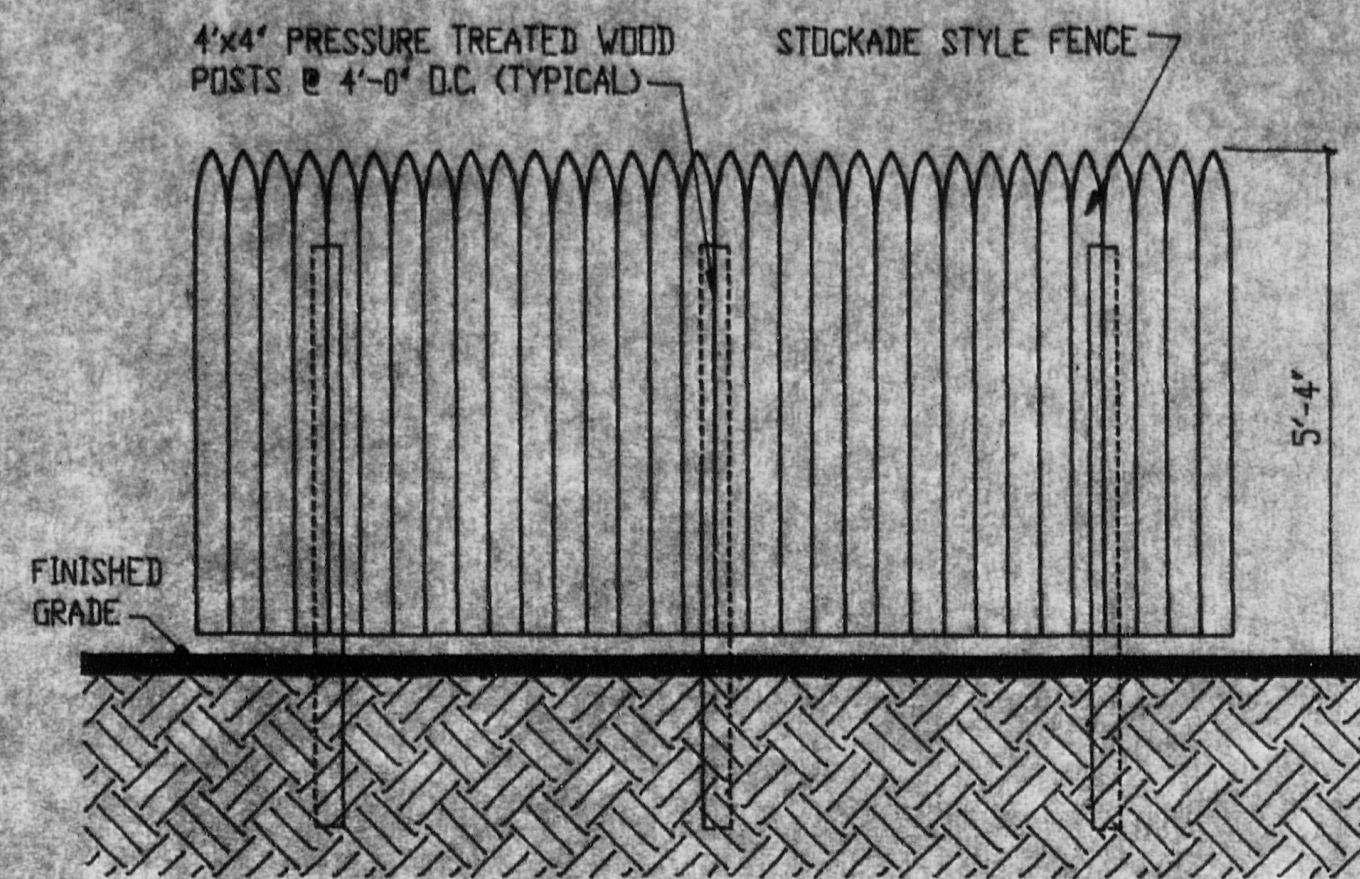
Bila Partners
158 North Main St.
Florida, NY 10921

Kelly, Katherine
Box 38
Vails Gate, NY 12584

Lawton, Edith B.
P.O. Box 653
Vails Gate, NY 12584

Beck, Raymond J. Jr. & Pauline A.
Box 498
Vails Gate, NY 12584

Stockdale, Arthur D. & Julie
P.O. Box 782 Long Hill Rd.
Cornwall, NY 12518



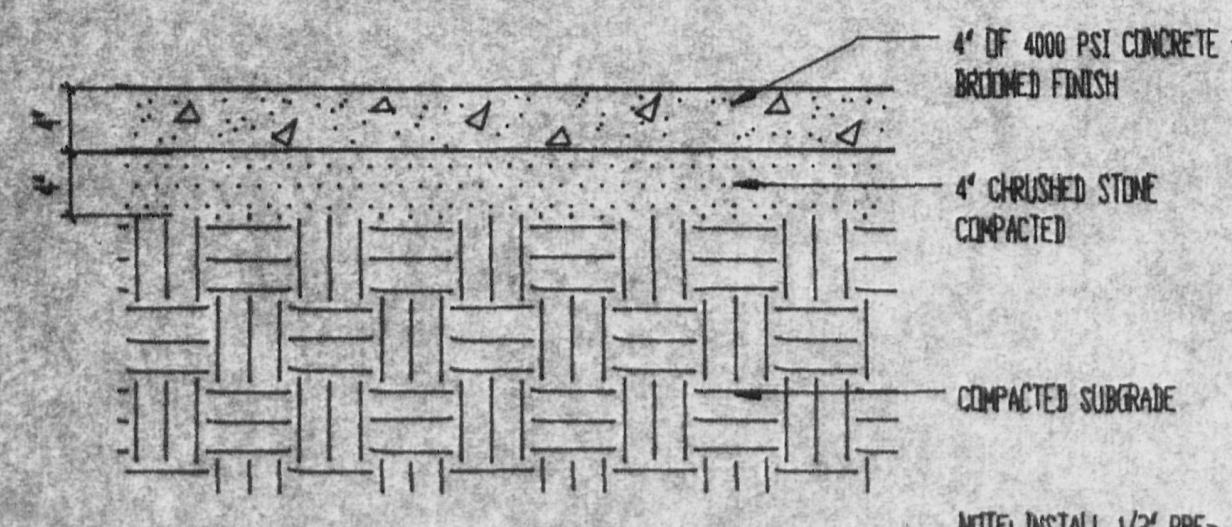
FENCE DETAIL

SCALE: 1/2"=1'-0"



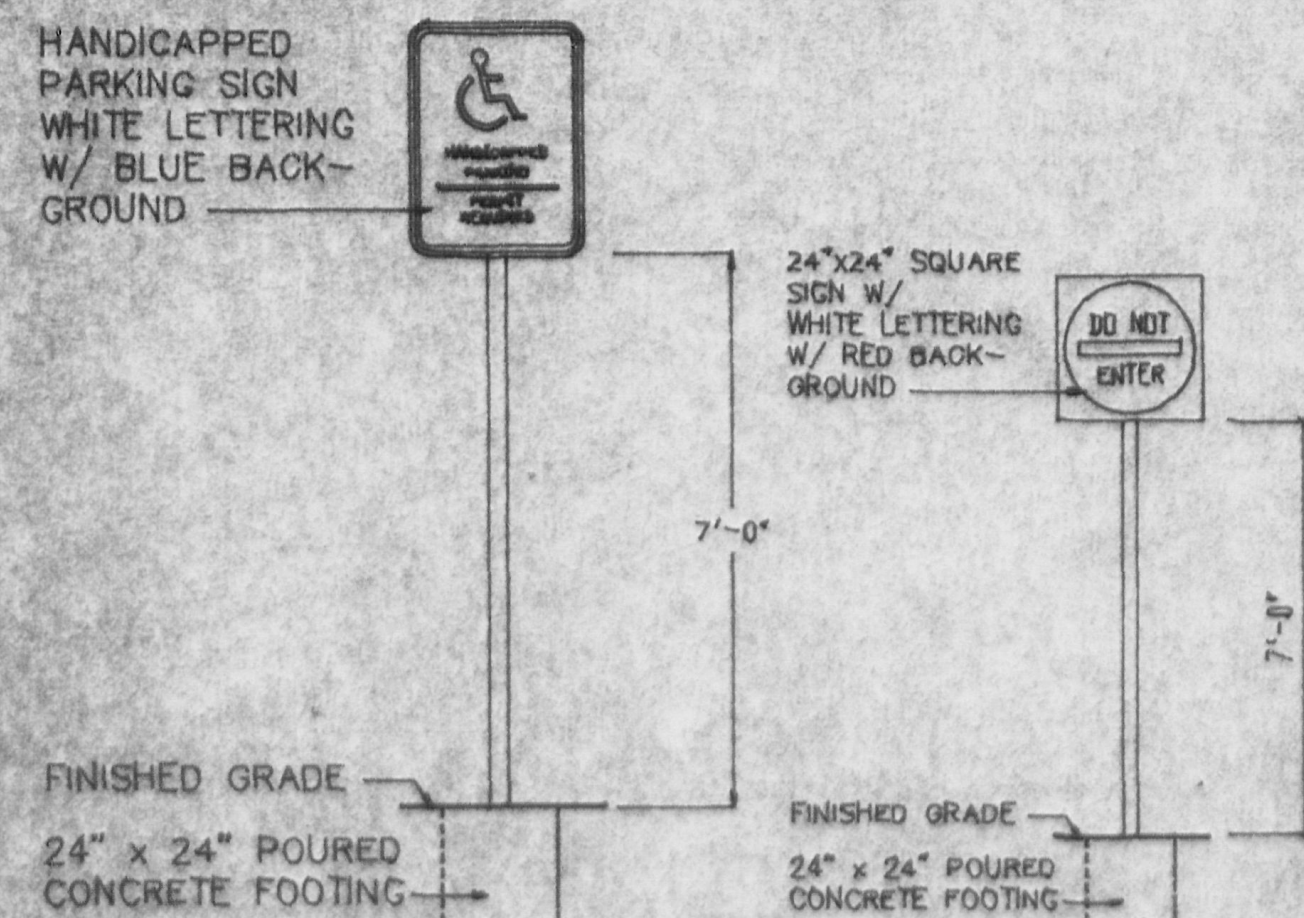
SIGN DETAIL

SCALE: 1/2"=1'-0"



CONCRETE WALK DETAIL

SCALE: 1"=1'-0"

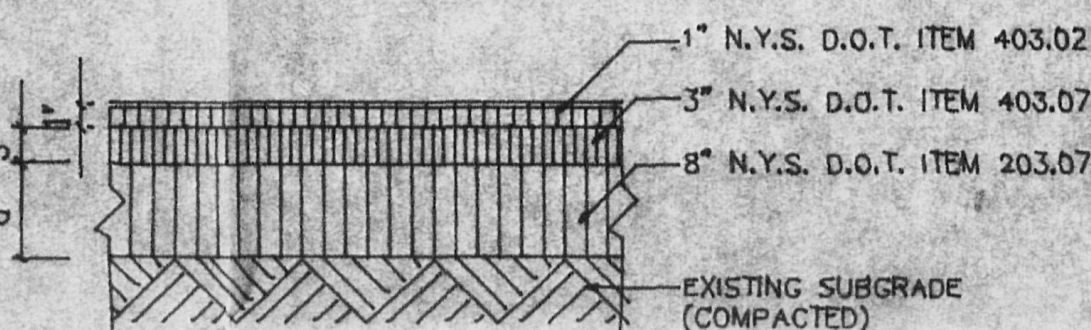


HANDICAP SIGN DETAIL

NO SCALE

DO NOT ENTER SIGN

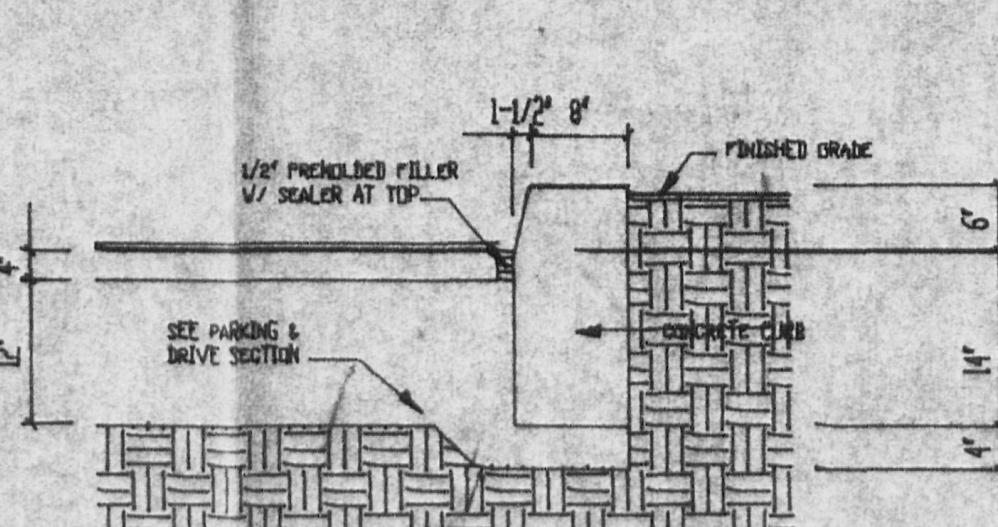
NO SCALE



DRIVE SECTION

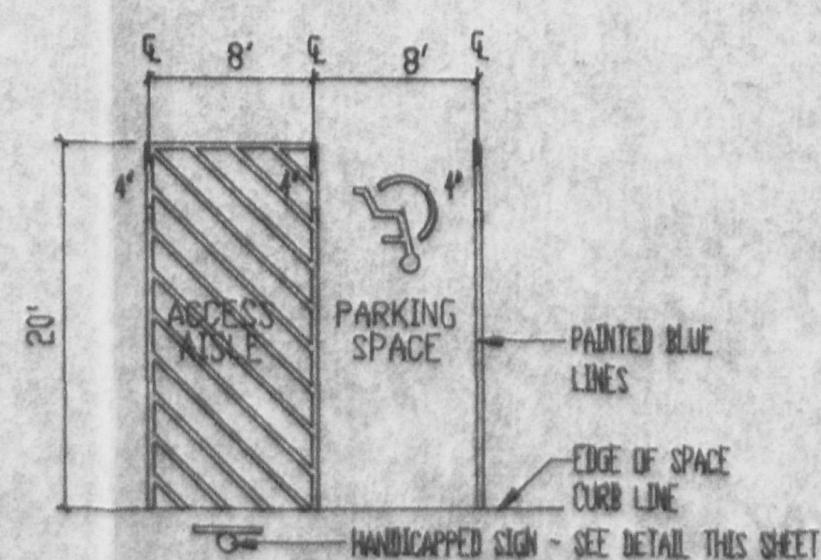
(TO 3' IN FROM CURB ALONG RTE. 300)

SCALE: 1"=1'-0"



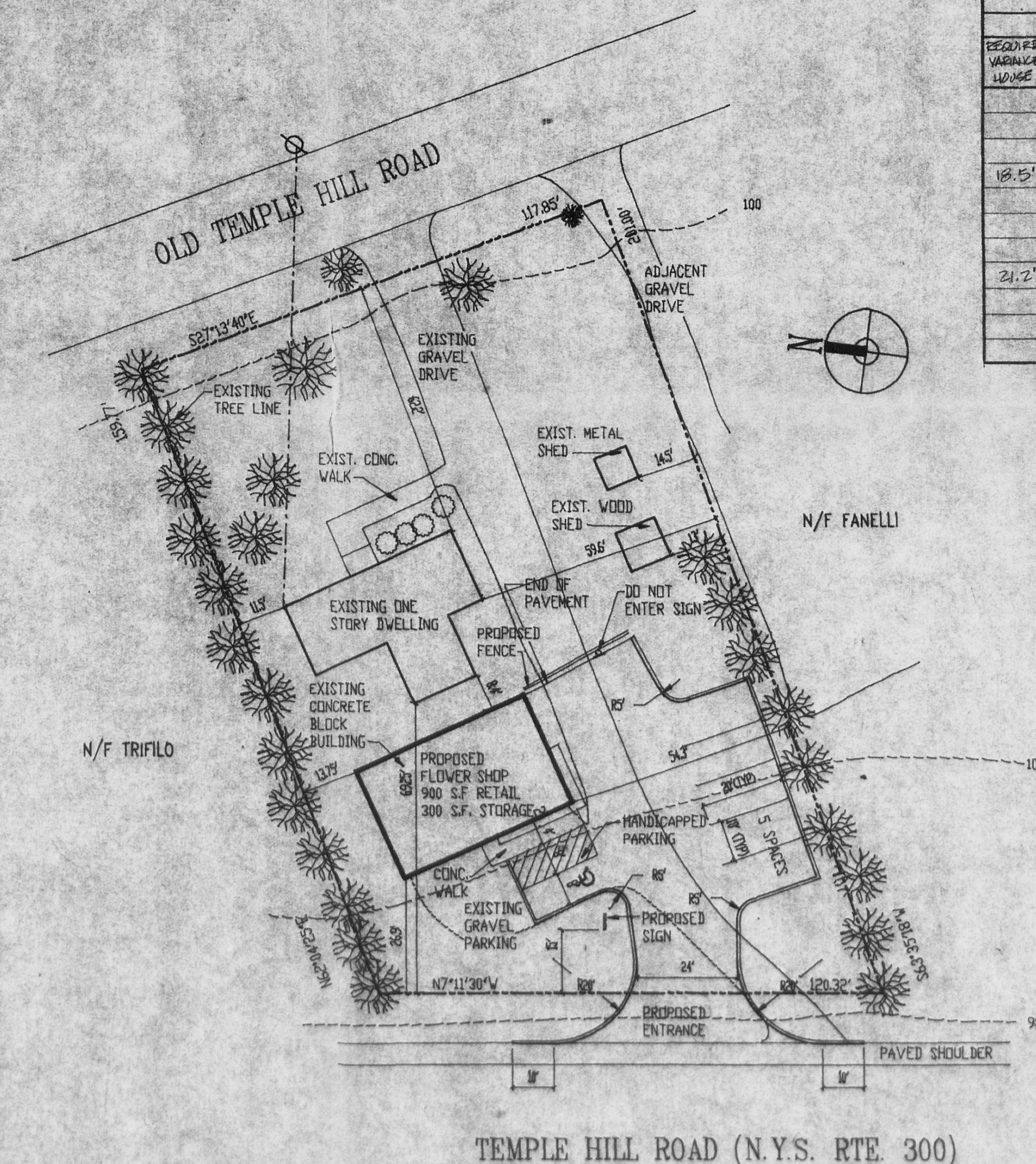
CONCRETE CURB SECTION

SCALE: 3/4"=1'-0"



HANDICAPPED SPACE DETAIL

SCALE: 1"=10'



TEMPLE HILL ROAD (N.Y.S. RTE. 300)

PROPOSED SITE PLAN

SCALE: 1"=20'



LOCATION MAP

ZONING REQUIREMENTS

DISTRICT C - DESIGN SHOPPING USE A1

SECTION 68, BLOCK 3 LOT 3 PROPOSED OR AVAILABLE

REQUIRED VARIANCE HOUSE	REQUIRED VARIANCE RETAIL	ITEM	REQUIRED	RETAIL	HOUSE
1916.01a	256	LOT AREA	40,000 S.F.	20831.9 S.F.	
	256	LOT WIDTH	200'	114'	117.85'
33	33	FRONT YARD	60'	26.9'	62.2'
18.5'	10.25'	SIDE YARD	30'	13.75'	11.5'
1.95'		BOTH SIDES	70'	68.05'	71.1'
		REAR YARD	30'	105.6'	69.25'
21.2'	10.42'	FRONTAGE	N/A		
		MAX. BLDG. HGT.	4.6'	EXISTING	EXISTING
		FLOOR AREA RATIO	0.5	0.06	0.05
		LOT COVERAGE	N/A		

* INDICATES EXISTING NONCONFORMANCE

PARKING REQUIREMENTS

REQUIRED:
1 SPACE PER 150 SQUARE FEET OF AREA IN RETAIL USE
900 SQUARE FEET IN RETAIL USE 900/150 = 6 SPACES
300 SQUARE FEET STORAGE SPACE NO ADDITIONAL EMP.

PROVIDED:
6 SPACES INCLUDING 1 HANDICAPPED

GENERAL INFORMATION

SURVEY INFORMATION:
TAKEN FROM A SURVEY BY PATRICK T. KENNEDY, L.S.
DATED OCTOBER 24, 1989

OWNER & APPLICANT:
TERRY & LORRAINE DECUOTO
ROUTE 300 TEMPLE HILL ROAD
NEW WINDSOR, N.Y.

DEED REFERENCE:
LIBER 2299, PAGE 784

CONSTRUCTION NOTES:

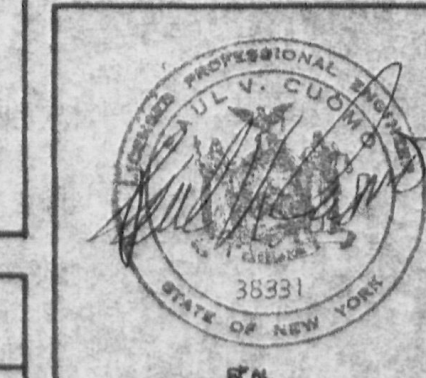
- EXISTING FIELDSTONE WALLS SHALL REMAIN INTACT TO THE MAXIMUM EXTENT POSSIBLE.
- PERFORM ALL WORK FURNISH ALL MATERIALS AND INSTALL ALL MEASURES REQUIRED TO REASONABLY CONTROL SOIL EROSION AND TO PREVENT AN INCREASE IN OFF-SITE DRAINAGE RESULTING FROM CONSTRUCTION OPERATIONS.
- CONSTRUCTION SHALL BE EFFECTED WITH MINIMAL DISTURBANCE TO NATURAL VEGETATION.
- FOLLOWING ROUGH GRADING, DISTURBED AREAS SHALL BE SEED AS FOLLOWING:
SEEDING RATE: 1/2 POUND RYE GRASS PER 1000 SQUARE FEET
MULCH RATE: 100 POUNDS HAY OR STRAW PER 1000 SQUARE FEET
- TEMPORARY SLOPES AND SEDIMENT BASINS TO BE MAINTAINED DURING CONSTRUCTION AND REINVESTED REGRASS AND SEEDS UPON COMPLETION OF ROAD AND UTILITY CONSTRUCTION.
- CATCH BASINS TO BE PROTECTED FROM SEDIMENTATION DURING CONSTRUCTION BY USE OF HAY BALES.

NOTE:
THIS PLAN IS COPYRIGHTED
UNAUTHORIZED ALTERATION
TO THIS PLAN IS A VIOLATION
OF SECTION 7209(2) OF THE
NEW YORK STATE EDUCATION
LAW.

DATE	REVISIONS	BY
01/09/92	ZBA. PUB. HEARINGS PAGE	
04/09/92	PLANNING BOARD	NER
04/09/92	PL. BD. WORKSHOP	NER
DATE	ISSUANCE	BY

DATE	REVISIONS	BY
01/09/92	ZBA COMMENTS PAGE	
04/09/92	WORKSHOP COMMENTS	NER

CUOMO ENGINEERING
STEWART INTERNATIONAL AIRPORT, NEW WINDSOR, N.Y. 12553 (914) 567-0063
PROJECT TITLE: PROPOSED RETAIL STORE FOR LORRAINE'S FLOWERS - n- STUFF
SHEET NO. SP-1



DATE	MARCH 12, 1992
DESIGNED BY	MGR
CHECKED BY	PVC
SCALE	AS NOTED
PROJECT NO.	92026

SP-1

SHEET NO. 1 OF 1